## UNITED STATES OF AMERICA DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT OFFICE OF ADMINISTRATIVE LAW JUDGES

The Secretary, United States
Department of Housing and Urban
Development, on behalf of Stacy
Myers,

Charging Party,

v.

FHEO Case: 09-04-1103-8

Vivian McClendon, Karol Kiermeyer,)

Respondents.

CHARGE OF DISCRIMINATION

## I. JURISDICTION

On August 30, 2004, Complainant Stacy Myers filed a timely, verified complaint with the United States Department of Housing and Urban Development ("HUD"). Complainant alleged that Respondents Vivian McClendon, manager, and Karol Kiermeyer, owner of the subject property, discriminated against her by refusing to make reasonable modifycations necessary to afford her, a disabled person, an equal opportunity to use and enjoy her dwelling, on the basis of her disability, in violation of the Fair Housing Act, as amended, 42 U.S.C. Sections 3601-3619 ("the Act").

The Act authorizes the issuance of a charge of discrimination on behalf of an aggrieved person following an investigation and a determination that reasonable cause exists to believe that a discriminatory housing practice has occurred. 42 U.S.C. Section 3610(g)(1) and (2).

By Determination of Reasonable Cause, dated June 9, 2005, the Director of the Office of Fair Housing and Equal Opportunity for Region IX, on behalf of the Assistant Secretary for Fair Housing and Equal Opportunity, has determined that reasonable cause exists to believe that a discriminatory housing practice based on disability has occurred in this case, and has authorized and directed the issuance of this Charge of Discrimination.

## II. SUMMARY OF ALLEGATIONS IN SUPPORT OF THIS CHARGE

Based upon HUD's investigation of the complaint, the Secretary has reasonable cause to believe that Respondents have violated the Act, specifically, 42 U.S.C. Sections 3604 (c) and (f), and 3617. The following allegations support this Charge:

- 1. It is unlawful to discriminate in the rental of, or to otherwise make unavailable or deny, a dwelling to any renter because of disability. 42 U.S.C. Section 3604(f)(1).
- 2. It is unlawful to discriminate against any person in the terms conditions or privileges of the rental of a dwelling, or in the provision of services or facilities in connection with the rental because of disability. 42 U.S.C. Section 3604(f)(2).
- 3. It is unlawful for any person to refuse to permit, at the expense of a disabled person, reasonable modifications of existing premises occupied by a disabled person, if the proposed modifications may be necessary to afford the disabled person full enjoyment of the premises of a dwelling. 42 U.S.C. Section 3604(f)(3)(A).
- 4. It is unlawful to make, print or publish any notice, statement or advertisement with respect to the rental of a dwelling that indicates any preference, limitation or discrimination because of disability or an intention to make any such preference, limitation or discrimination. 42 U.S.C. Section 3604(c).
- 5. It is unlawful to coerce, intimidate, threaten or interfere with any person in the exercise or enjoyment of, or on account of his having exercised or enjoyed, any right granted or protected by section 3604 of the Act. 42 U.S.C. Section 3617.
- 6. The subject property, Fleur de Lis Villas, is a 100-unit apartment complex in Las Vegas, Nevada. The rental office is located at 3501 S. Maryland Parkway, Las Vegas, Nevada.
- 7. Respondent Karol Kiermeyer is the owner of the subject property.
- 8. Respondent Vivian McClendon is the property manager of the subject property.

- 9. Complainant Stacy Myers suffers from a physical orthopedic impairment and uses a cane to walk and maintain her balance. Complainant is disabled within the meaning of the Act.
- 10. On or about February 1, 2004, Complainant entered into a six-month lease and moved into an apartment at the subject property, located at 777 E. Harmon #27, Las Vegas, Nevada 89119. At that time, Complainant informed the manager that she needed grab bars installed in her shower due to her disability.
- 11. The installation of grab bars is a normal business practice of Respondents. Approximately one-third of Respondents' units have grab bars in the shower and tub. Respondents usually have grab bars on-site or can quickly order them.
- 12. On or about February 27, 2004, Complainant lost her balance and fell in the shower. She immediately notified the manager that she fell and needed grab bars.
- 13. Two days later, Respondents' maintenance worker inspected Complainant's shower stall to prepare for the installation of grab bars.
- 14. On or about March 4, 2004, Complainant notified the manager in writing about her continued need for grab bars and that the maintenance worker never returned to install the grab bars.
- 15. On or about March 5, 2004, the manager notified Complainant in writing that the grab bars would be installed in her shower.
- 16. On or about March 7, 2004, the maintenance worker returned to Complainant's unit with the grab bars. However, due to a technical problem, he could not complete the installation at that time.
- 17. On or about March 15, 2004, Complainant's home health care nurse telephoned the owner from Complainant's apartment and requested that Complainant be allowed to install grab bars in her shower at her own expense. The owner denied her request.
- 18. Immediately thereafter, the owner came to Complainant's apartment and again told Complainant and the

nurse that she denied their request. The owner also told them that she should not have rented to Complainant because Complainant has syncope and the property insurance did not cover incidents relating to syncope such as fainting or collapsing.

- 19. By letter dated March 15, 2004, the owner denied Complainant's request to install grab bars. The owner also informed Complainant that she needed to seek housing elsewhere at a place for persons with moderate to severe disabilities because the property insurance only covered mild disabilities, and that grab bars would not accommodate her problem.
- 20. On or about March 30, 2004, Complainant provided Respondents a letter dated March 30, 2004, from her health care provider informing them that Complainant did not have syncope or any medical condition that would prevent her from living in her apartment.
- 21. On or about April 1, 2004, Respondents issued Complainant a 30-day notice to vacate.
- 22. On or about May 1, 2004, Respondents refused to accept Complainant's rental payment.
- 23. On or about May 15, 2004, the manager informed Complainant that the owner agreed to accept her rental payment and Complainant did not have to move. However, Respondents refused to renew Complainant's six-month lease and only agreed to rent to her on a month-to-month tenancy.
- 24. On or about September 10, 2004, Respondents received a notification from HUD that Complainant filed the subject discrimination complaint.
- 25. On or about November 1, 2004, Respondents issued Complainant a second 30-day notice. The 30-day notice is pending HUD's investigation.
- 26. By attempting to terminate Complainant's tenancy through the issuance of 30-day notices to vacate, Respondents committed unlawful discrimination against Complainant in the rental of a dwelling because of her disability. 42 U.S.C. Section 3604 (f)(1).
- 27. By conditioning Complainant's tenancy on the severity and/or type of disability, Respondents committed

unlawful discrimination against Complainant in the terms, conditions and privileges of the rental of her dwelling, and in the provision of services and facilities in connection with the rental, because of her disability. 42 U.S.C. Section 3604 (f)(2).

- 28. Respondents committed unlawful discrimination by refusing to permit the installation of grab bars as a reasonable modification of Complainant's premises that is necessary to afford Complainant the full enjoyment of her dwelling. 42 U.S.C. Section 3604(f)(3)(A).
- 29. Respondents committed unlawful discrimination against Complainant by making and printing statements with respect to the rental of a dwelling that indicate a preference, limitation or discrimination because of her disability or an intention to make any such preference, limitation or discrimination. 42 U.S.C. Section 3604 (c).
- 30. Respondents committed unlawful discrimination through their coercion, intimidation, threats and interference with Complainant in the exercise and enjoyment of, or on account of her having exercised and enjoyed, her rights granted and protected by section 3504 of the Act, by issuing Complainant a 30 day notice to vacate in November, 2004. 42 U.S.C. 3617.
- 31. As a result of Respondents' conduct, Complainant suffers damages including, but not limited to, economic loss, inconvenience, and physical and emotional distress. Complainant has difficulty using her shower and is in constant fear of falling in the shower. Furthermore, Complainant's tenancy is uncertain due to the pending 30-day notice to vacate and Respondents' refusal to renew her sixmonth lease.

## III. CONCLUSION

WHEREFORE, the Secretary, through the Office of the Regional Counsel, Region IX, and pursuant to Section 3610 of the Act, hereby charges Respondents with engaging in discriminatory housing practices, in violation of Section 3604 of the Act, and prays that an order be issued, pursuant to Section 3612(g)(3), that:

1. Declares that the discriminatory housing practices of Respondents, as set forth above, violate the Fair Housing Act, as amended, 42 U.S.C. §§ 3601-19;

- 2. Enjoins Respondents, their agents, employees and successors, and all other persons in active concert or participation with them from discriminating, because of disability or the exercise and enjoyment of rights protected under the Act, against any person in any aspect of the rental of a dwelling;
- 3. Awards such damages as will fully compensate Complainant for her economic loss, inconvenience, physical and emotional distress, pursuant to 42 U.S.C. § 3612(g)(3), and any other damages to which she is legally entitled;
- 4. Awards a civil penalty against each Respondent for each discriminatory housing practice pursuant to 42 U.S.C. § 3612(g)(3); and,
- 5. Awards such additional relief as may be appropriate under 42 U.S.C. § 3612(g)(3) of the Act.
- 6. Awards any other damages to which Complainant is legally entitled.

	Respectfully submitted,
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